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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,943	12/29/2003	Neil Keegstra	1122-8	7887
23869	7590	06/30/2004	EXAMINER	
HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791			SEMUNEGUS, LULIT	
		ART UNIT		PAPER NUMBER
				3641

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/748,943	KEEGSTRA ET AL.
	Examiner	Art Unit
	Lulit Semunegus	3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/26/2004
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: ____

DETAILED ACTION

Claim Objections

1. Claim 7 is objected to because of the following informalities:
 - The word "sold" in line 7 of page 9 should be changed.
 - The term "have" in line 9 of page 9 should be changed to "having".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-5, 7, 10 and 11 rejected under 35 U.S.C. 102(b) as being anticipated by Abbott et al (3,650,213).

In regards to claims 1, 7 and 10, Abbott et al (3,650,213) teaches a less-lethal shot gun round comprising: a generally elongate tubular hull (21) having a forward end and an opposed rearward end (fig. 1); a base (24) enclosing said rearward end of said hull; a propellant (51) contained within said base; a wad (27) sealably positioned in said hull adjacent said rearward end; and a projectile slug (31) carried in said hull, said slug being a generally cylindrical member having an outer cylindrical wall, said slug further including a head/protruding member (33) at a forward end of said cylindrical member thereby increasing the weight of said slug at said forward end (fig. 8); said slug being formed of a non-

metallic material (col. 1, lines 60-64) which inherently will have a durometer hardness less than conventional shot gun slug materials.

In regard to claims 3-4, Abbott et al the protruding member is dome shaped and surrounded by a rim (fig. 3).

In regards to claims 5 and 11, Abbott et al teaches slug is manufactured of material molded from the group consisting of rubber, foam and plastic (col. 1, lines 60-64).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 2, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abbott et al (3,650,213) in view of Gibson et al (6,615,739). Abbott et al teach all the limitations of claims 2, 8 and 9 except the cylindrical wall is dimpled. Gibson et al teaches a slug with hollow cylindrical bore extending from the rearward end (fig. 1b) where the outer cylindrical wall is dimpled (fig. 8a). At the time of the invention, it would have been obvious to one ordinarily skilled in the art to have a dimpled cylindrical wall to promote accuracy and/or distance of the projectile/slug.
6. Claims 1, 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abbott et al (3,650,213) in view of Olson (5,353,712). Abbott et al teach all

the limitations of claims 1, 6 and 12 except the non-metallic material has durometer hardness between 20 and 90. Olson teaches a slug with material which has durometer hardness between 20 and 90 (col. 6, lines 4-16). At the time of the invention, it would have been obvious to one ordinarily skilled in the art for the material of Abbott et al to have a durometer hardness between 20 and 90 as taught in Olson since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Ballreich et al (4,546,704) teaches a less-lethal shot gun round (6) comprising: a generally elongate tubular hull (1) having a forward end and an opposed rearward end (fig. 1); a base (8) enclosing said rearward end of said hull; a propellant (7) contained within said base; a wad sealably positioned in said hull adjacent said rearward end; and a projectile slug (6) carried in said hull, said slug being a generally cylindrical member having an outer cylindrical wall, said slug further including a head/protruding member at a forward end of said cylindrical member thereby increasing the weight of said slug at said forward end (fig. 1); said slug being formed of a non-metallic material (col. 2, lines 53-55) which inherently will have a durometer hardness less than conventional shot gun slug materials.

- Tanner et al (3,058,420) teaches and a projectile slug (7) carried in a hull (1), said slug being a generally cylindrical member having an outer cylindrical wall, said slug further including a head at a forward end of said cylindrical member thereby increasing the weight of said slug at said forward end (fig. 3-6).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lulit Semunegus whose telephone number is (703) 306-5960. The examiner can normally be reached on Mon-Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on (703) 306-4198. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lulit Semunegus
Examiner
Art Unit 3641